
**IN THE MATTER OF
FRANK HUNDLEY,
BOARD OF GOVERNORS MEMBER,
RUTGERS UNIVERSITY**

STATE ETHICS COMMISSION

Commission Case No. 12-17

DECISION

BACKGROUND

Rutgers, The State University of New Jersey ("Rutgers") requests an exception to Executive Order 14 (Corzine 2006) ("EO 14") on behalf of Board of Governors member Frank Hundley ("Hundley"). Hundley is the Vice-President of Wealth Management at Janney Montgomery Scott, LLC ("Janney"), which provides services to Rutgers.

EO 14 prohibits a member of a State college or university governing board from being employed by or deriving or receiving any compensation from a firm, association, or partnership that does business with the institution that the board member governs. The term "doing business with" is defined to mean "providing or receiving any goods or services or otherwise engaging in a transaction involving the exchange of anything of value." Pursuant to paragraph 5 of EO 14, however, the State Ethics Commission is authorized to grant exceptions from this prohibition if "in the judgment of the Executive Director, the entity that is doing business with the institution is doing so pursuant to a contract awarded in accordance with the competitive bidding laws applicable to that institution or the public interest requires an exception to be made."

APPLICATION

According to the information provided by Rutgers, Janney is one of seven firms in a pool of bond underwriters approved by Rutgers to provide underwriting services to the institution. Janney also serves as the co-managing underwriter for Rutgers. The selection of Janney to provide these services to Rutgers was made in August 2014, more than two years before Hundley's appointment to the Rutgers Board of Governors in October 2016. The contract was awarded to Janney pursuant to a request for proposal ("RFP") bidding process which complied with Rutgers' applicable competitive bidding requirements, and did not involve Hundley. Rutgers has indicated that Hundley will recuse himself from any matters involving Janney while serving on the Board of Governors.

While EO 14 expressly prohibits Hundley, as a member of the Board of Governors, from receiving any compensation from Janney while Rutgers is doing business with the company, the State Ethics Commission may grant an exception to this prohibition if Janney is doing business with Rutgers pursuant to a contract awarded in accordance with the competitive bidding laws applicable to Rutgers or if the public interest requires that an exception be made. In this situation, an EO 14 exception is appropriate because Janney was selected to provide underwriting services

to Rutgers pursuant to an RFP process which met the competitive bidding requirements applicable to the institution. Moreover, Janney was selected to provide underwriting services for Rutgers more than two years prior to Hundley's appointment to the Board of Governors, and he had no involvement in Rutgers' selection of Janney. Under these circumstances, an EO 14 exception also serves the public interest because there is no risk that the selection of Janney was influenced by Hundley's position on the Rutgers Board and granting the exception will allow Rutgers to continue to do business with Janney, a company it previously determined to be most suited to provide the underwriting services.

DECISION

The Commission grants Frank Hundley an exception to the provisions of EO 14. In his capacity as a member of the Rutgers Board of Governors, however, Mr. Hundley must recuse himself from any matters involving Janney Montgomery Scott, LLC.

DECISION RENDERED BY THE
STATE ETHICS COMMISSION ON
THE 18th DAY OF APRIL, 2017.